



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

December 7, 2023

CERTIFIED MAIL No.: 7014 2120 0001 8302 9743

Stimson Lumber Company
c/o CT Corporation System, Registered Agent
780 Commercial Street, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. AQ/CAO-HQ-2023-004

This letter is to inform you that the Department of Environmental Quality (DEQ) has issued you a civil penalty of \$6,600 for failing to timely submit a complete emissions inventory (EI) required by Cleaner Air Oregon (CAO) regulations, specifically Oregon Administrative Rule 340-245-0040.

DEQ issued this penalty because an accurate and timely assessment of the risks posed by the Facility's air emissions to surrounding communities is essential to protecting human health. Your facility emits acetaldehyde, acrolein, formaldehyde and other toxic air contaminants. These emissions can pose health risks to humans such as cancer and other acute or chronic health problems. An EI is the first and foundational step in the CAO process. Inventoried emissions are then used to prepare a risk assessment, and, if necessary, to identify necessary emission controls. Without an accurate and timely EI, DEQ and the public cannot adequately assess the risk of harm from your facility's emissions.

DEQ appreciates your efforts to eventually correct the violation by submitting updated EIs to DEQ on October 11, 2022 and November 1, 2022. DEQ considered this effort when determining the amount of civil penalty.

You may pay the penalty by mailing a check or money order to the address below. If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – DEQappeals@deq.state.or.us

Via fax – 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions on how to appeal. Please review and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Jenny Root at 503-229-5874.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kieran O'Donnell', written in a cursive style.

Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Julia DeGagné, CAO, DEQ
J.R. Giska, CAO, DEQ
Patty Jacobs, Northwest Region Office, DEQ
Donald Hendrix, AQ, DEQ
Accounting, DEQ
Quinn Burke-Anderson, Environmental Manager, Stimson Lumber Company
9400 SW Barnes Road, Suite 530, Portland, OR 97225

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF:)	NOTICE OF CIVIL PENALTY
STIMSON LUMBER COMPANY,)	ASSESSMENT AND ORDER
an Oregon corporation,)	
Respondent.)	CASE NO. AQ/CAO-HQ-2023-004

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment, and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, 200, 214, 218, 245 and 247.

II. FINDINGS OF FACT

1. Respondent, Stimson Lumber Company, an Oregon corporation, operates a wood products mill at 49800 S.W. Scoggins Valley Road, Gaston, Oregon (the Facility).

2. Since 2002, Respondent has operated the Facility under Oregon Title V Operating Permit No. 34-2066 (the Permit), issued by the Department of Environmental Quality (DEQ).

3. The Permit authorizes Respondent to discharge air contaminants from the Facility in conformance with the requirements, limitations and conditions in the Permit.

4. The Facility's emissions include, but are not limited to, acetaldehyde, acrolein, formaldehyde and other toxic air contaminants. These emissions can pose health risks to humans such as cancer and other acute or chronic health problems and are listed on the Toxic Air Contaminant Priority List (OAR 340-247-8010, Table 1), promulgated by the Environmental Quality Commission (EQC).

5. Oregon's Cleaner Air Oregon (CAO) program requires Title V permit holders, among others, when called in, to report all toxic air contaminants emitted by a source, assess potential health risks, and reduce risk if the level of risk posed by the toxic air contaminants exceeds health risk action levels. By letter dated July 2, 2020, DEQ notified Respondent that it was being "called in" to the

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1 program, and that Respondent is required to submit CAO information to DEQ, including an emissions
2 inventory, or "EI" (the DEQ Notice Date).

3 6. Respondent submitted its initial EI to DEQ on September 30, 2020. DEQ determined the
4 EI was incomplete and Respondent submitted an updated EI to DEQ on or about April 23, 2021 (the
5 April 2021 EI).

6 7. DEQ determined the April 2021 EI was incomplete and requested that Respondent
7 submit additional information and corrections to the EI concerning Toxic Emission Units at the Facility
8 (TEUs), process flows and emission estimates.

9 8. In accordance with OAR 340-245-0030(2), on March 1, 2022, DEQ sent Respondent a
10 written request to provide DEQ with additional information, corrections, and updates to the April 2021
11 EI, by April 18, 2022.

12 9. Respondent submitted supplemental information and a revised EI to DEQ on April 18,
13 2022, and a minor revision to the inventory on April 22, 2022 (together the April 2022 EI).

14 10. DEQ determined that the April 2022 EI was incomplete and did not sufficiently address
15 DEQ's March 1, 2022, request. Specifically, DEQ requested in the March 1, 2022, letter, but
16 Respondent did not include in the April 2022 EI, the following information and corrections:

17 (a) Report fugitive emissions associated with hardboard production for the following
18 Toxic Emissions Units (TEUs): refiners (RF12), machine chest, header boxes, and forming machine
19 (FORMER).

20 (b) Update fuel dryer (FDRYER) maximum hourly throughput to 7.2 oven-dried
21 tons (ODT) or provide quantitative documentation substantiating the reported capacity. Respondent's
22 2022 EI updated the maximum fuel dryer (FDRYER) capacity to 4.32 ODT per hour but did not
23 provide sufficient quantitative documentation to support this.

24 (c) Update the boiler emission factors (BLR_ESP and BLR_SCR) to the most recent
25 available emission factors from the National Council for Air and Stream Improvement (NCASI) for
26 wood-fired boilers.

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(d) Update the kiln emission factors to match those in the “DEQ HAP and VOC Emissions Factors for Lumber Drying, 2021” AQ-EF09 form.

(e) Update ‘Actual’ activity levels to be consistent with the production values listed in the 2019 Annual Report for the boilers (BLR_SCR and BLR_ESP) and surface coating (MB_BASECOAT and MB_SURFACE - Mycostat P51)

(f) Provide laboratory data or other justification to support the biomass concentrations used to develop the emissions estimates for wastewater treatment (SURGE, ABASE, S_POND, R_POND, and E_POND).

(g) Revise the EI to include emission estimates for any TEUs associated with categorically insignificant activities which are not exempt TEUs per OAR 340-245-0060(3)(b). Respondent’s April 2022 EI did not include emission estimates for all such TEUs, including maintenance activities and whitewater tanks.

11. In accordance with OAR 340-245-0030(4)(b), on June 30, 2022, DEQ issued Respondent a Warning Letter with Opportunity to Correct, No. 2022-WLOTC-7382 (the WLOC), citing Respondent for failing to submit to DEQ information necessary to complete the EI in violation of OAR 340-245-0040(1) and (4). The WLOC again requested that Respondent include the information in Paragraphs 10(a) through 10(g) above in its EI and requested additional information to be included in the EI in accordance with OAR 340-245-0030(4)(b), and to submit the updated EI by August 15, 2022.

12. On August 8, 2022, DEQ issued Respondent an amended WLOC (AWLOC) extending the due date for some of the information requested in the WLOC to complete the EI by August 29, 2022.

13. On August 15, 2022, and August 29, 2022, Respondent submitted additional information and revised EIs (together the August 2022 EI) to DEQ.

14. DEQ determined that the August 2022 EI was incomplete because Respondent did not sufficiently address or include all of the information requested in the WLOC and the AWLOC.

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15. On October 11, 2022, and November 1, 2022, Respondent submitted updated EIs to DEQ that included the information requested in the March 1, 2022, letter, WLOC and AWLOC. DEQ approved Respondent's final EI on March 29, 2023.

III. CONCLUSIONS

1. Acetaldehyde, acrolein and formaldehyde are "toxic air contaminants" as defined in OAR 340-247-0020(1) and OAR 340-247-8010 (Table 1) and are "regulated air pollutants" as defined in OAR 340-200-0020(133)(a)(G).

2. The Facility is a "source" as defined in OAR 340-200-0020(165).

3. The Facility is an "existing source" as defined in OAR 340-245-0020(20) because Respondent commenced construction of the Facility before November 16, 2018.

4. The Facility includes "Toxic Emissions Units" or "TEUs" pursuant to OAR 340-245-0020(59), because the Facility's operations include emissions producing activities that emit toxic air contaminants.

5. Respondent has violated OAR 340-245-0040(1) and (4) and OAR 340-245-0030(1)(a)(A) by failing to timely submit to DEQ a complete and accurate EI by the April 18, 2022, deadline set by DEQ in accordance with OAR 340-245-0040(1) and OAR 340-245-0030(1)(a)(A), (2), and (4), as described in Sections II and III of this Notice. Specifically, after being called into the CAO program, Respondent failed to provide the additional information and corrections to its EI despite repeated requests from DEQ for corrections and additional information on March 1, 2022, June 30, 2022 (WLOC), and August 8, 2022 (AWLOC). Respondent did not sufficiently respond to those requests until it submitted the updated October 11, 2022 and November 1, 2022 EIs. This is a Class II violation according to OAR 340-012-0054(2)(i). DEQ hereby assesses a \$6,600 civil penalty for this violation.

IV. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is hereby ORDERED TO:

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1 Pay a total civil penalty of \$6,600. The determination of the civil penalty is attached as Exhibit
2 1 and is incorporated as part of this Notice.

3 If you do not file a request for hearing as set forth in Section V below, your check or money order
4 must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office,**
5 **700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

6 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

7 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
8 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
9 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
10 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
11 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
12 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
13 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
14 it to **503-229-6762** or email it to **DEQappeals@deq.state.or.us**. An administrative law judge
15 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
16 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
17 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
18 you may represent yourself. If you are a corporation, partnership, limited liability company,
19 unincorporated association, trust or government body, you must be represented by an attorney or a duly
20 authorized representative, as set forth in OAR 137-003-0555.

21 Active-duty service members have a right to stay proceedings under the federal Service
22 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-452-8260, the
23 Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal
24 Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not
25 have a toll-free telephone number.

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1 If you fail to file a timely request for hearing, the Notice will become a final order by default
2 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
3 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
4 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
5 the relevant portions of its files, including information submitted by you, as the record for purposes of
6 proving a prima facie case.

7
8 12/7/2023
9 Date


Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Failing to submit a timely and complete toxic air contaminant emissions inventory as required under OAR 340-245-0040(1) and (4).

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0054(2)(i).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$3,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(2)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(2)(a)(A) because Respondent violated an air quality rule and operates under a Title V permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by Respondent, and receives a value of 10 according to OAR 340-012-0145(2)(a)(C) and (D) and 340-012-0145(2)(b), because Respondent had the following PSAs:

- Two Class I violations and one Class II violation in Notice of Civil Penalty Assessment and Order No. AQ/V-NWR-14-114 issued November 4, 2014; and
- Five Class I violations and 82 Class II violations (41 Class I equivalents) in Notice of Civil Penalty Assessment and Order No. AQ/V-NWR-2019-058 issued March 13, 2020.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent was required to submit one timely and complete emission inventory by April 18, 2022.

- "M" is the mental state of Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. According to OAR 340-012-0030(15), negligent means the respondent failed to take reasonable care to avoid a foreseeable risk of conduct constituting or resulting in a violation. By failing to take reasonable care to ensure that Respondent submitted all of the information requested by DEQ to complete the emission inventory by the April 18, 2022, deadline set in the March 1, 2022 letter, Respondent failed to take reasonable care to avoid the foreseeable risk Respondent would not provide adequate information to complete its EI timely, in violation of Oregon's Cleaner Air Oregon regulations.
- "C" is Respondent's efforts to correct or mitigate the violation and receives a value of -2 according to OAR 340-012-0145(6)(d) because Respondent eventually made some efforts to correct the violation. DEQ first requested additional information and corrections to the EI on March 1, 2022. Respondent submitted updated EIs to complete the initial March 1, 2022 request and subsequent information requests in the WLOC and AWLOC on October 11, 2022, and November 1, 2022. DEQ approved Respondent's final EI on March 29, 2023.
- "EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 pursuant to OAR 340-012-0150(4) In this case, "EB" receives a value of \$0 as there is insufficient information on which to base a finding.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= $\$3,000 + [(0.1 \times \$3,000) \times (10 + 0 + 0 + 4 - 2)] + \0
= $\$3,000 + (\$300 \times 12) + \$0$
= $\$3,000 + \$3,600 + \$0$
= $\$6,600$